

EXHIBIT 1

Eureka Broadcasting Co., Inc., the licensee KURY, filed a 250 mile waiver application in AM Revitalization Window 1 which was granted for FM translator station FCC facility ID No. 8297, now DK281CM (“ID 8297”). However, based on Section 312(g) of the Communications Act, the license for ID8297 was cancelled and Eureka timely filed a petition for reconsideration.

ID 8297 had operated continuously at its original location since 1987 until the Federal Aviation Administration (“FAA”) requested it to discontinue operations as it was determined that it was causing interference to pilot communications, and this constituted a hazard to air safety.

Eureka determined the best path was to move ID 8297 to Brookings to be associated with KURY in the first AM revitalization 250 mile waiver window. That construction permit was granted on May 26, 2016 and contained the normal 36 months expiration. However, without a condition on the CP, the FCC staff required ID 8297 to build and begin operations within the 12 months dating from October 2015 when it went silent at its former location to satisfy air safety concerns. This had the practical effect of allowing only a 12 months construction period, rather than the normal 36 months.

Due to a variety of weather and supplier circumstances, Eureka was unable to construct ID 8297 within that 12 months period. Citing Section 312(g) the division cancelled ID 8297’s license on November 6, 2017. A timely Petition for Reconsideration was filed on December 1, 2017 and cites cases where it was deemed appropriate to reinstate a license previously cancelled under §312(g) due to FAA considerations. That Petition for Reconsideration has not been ruled upon and remains on file.

In *Letter to Edward A. Schober*, DA 18-37, released January 11, 2018, Peter Doyle, Chief of the Audio Services Division, stated the bureau will consider requests to waive the eligibility requirements established in the *AM Revitalization First Report & Order*, on a showing of good cause, when facts of a particular case make strict compliance with a rule inconsistent with the public interest if applied to the petitioner and when relief requested would not undermine the policy objective of the rule in question.”¹

This application meets that test. KURY deserves an opportunity to have a translator in the AM Revitalization Window. As detailed in its Petition for Reconsideration Eureka was unable to return ID 8297 at its former location to avoid creating a hazard to air safety. And, it could not complete construction at its new location in only twelve months due to weather and supplier issues; problems that could easily have been overcome well within the normal 36 construction period.

Therefore, as anticipated in *Letter to Edward A. Schober*, good cause is shown in this case because a translator for KURY will provide additional needed service to its listeners fulfilling the policy goals of the AM Revitalization Order. Further, a grant of this relief will not undermine the policy objective of Commission rules, given that §312(g) came into play only because Eureka’s compliance with FAA air hazard concerns.

¹ *WAIT Radio v. FCC* 418 F. 2d 1153 *aff’d* 459 F. 2d 1203 (D.C. Cir. 1972), *cert. denied*, 409 U.S. 1027 (1972).

Eureka does understand that the AM Revitalization Order affords KURY only one translator. Accordingly, if the Petition for Reconsideration is granted and ID 8297 is restored its license, Eureka will respectfully request that this instant application be withdrawn. If the Petition for Reconsideration remains dormant, however, Eureka respectfully requests that this application be accepted for filing and proceed to grant. In that case, Eureka will withdraw its Petition for Reconsideration of ID 8297.